

State Board of Equalization

OPERATIONS MEMO

For Public Release

No: 1177

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SUBJECT: Collecting Penalty and Interest after Denial of Claims for Refund

I. PURPOSE

This Operations Memo establishes revised procedures for collection of the penalty and interest remaining after a taxpayer pays all of the tax due and their claim for refund has been denied.

II. BACKGROUND

Revenue and Taxation Code section 6933 provides that a claimant has 90 days after the mailing of the notice of denial of refund to bring an action against the Board of Equalization (BOE) in a court of law on the grounds set forth in the claim. Previously, upon denial of the claim for refund, the “stop demand” placed on the account in IRIS remained in place for 180 days after the denial of the refund claim. During this time, collection of the remaining penalty and interest was suspended. Under the new procedures, the stop demand will be removed 90 days after the denial of the refund claim and collection of the penalty and interest will resume unless a suit for refund has been filed in court.

III. ACTION AFTER REFUND CLAIM IS DENIED

A. Audit Determination and Refund Section (ADRS) and Special Taxes & Fees Division’s Appeals and Data Analysis Branch (ADAB)

ADRS or ADAB will remove the stop demand flag and add a comment in IRIS stating the claim for refund has been denied 90 days after the claim for refund is denied, including the denial of a claim for refund following the appeals process, and if a suit for refund has not been filed by the taxpayer in the interim.

B. District Office, Centralized Collection Section (CCS), and Special Taxes & Fees Division’s Collection Section

Following the removal of the stop demand flag from the account when the new period representing the denied claim for refund enters ACMS, the collector must contact the taxpayer and ask for voluntary payment of the penalty and interest. If the taxpayer fails to comply, or if the collector’s attempts to contact the taxpayer are unsuccessful, summary collection action to collect the penalty and interest should resume, unless the collector has information which indicates the taxpayer has requested relief of penalty and/or interest. If the taxpayer or their attorney of record indicates that a suit for refund has been filed and provides proof of the filing, or if BOE receives notice of a suit for

refund, the collector must suspend collection of the affected liability. Collection of the liability will resume if the taxpayer's suit is unsuccessful and the liability remains unpaid.

Any legal documents pertaining to the suit received in the district office, CCS, or by the Collection Section must be forwarded to Special Operations Branch (SOB) for review in accordance with CPPM section 722.080.

C. Litigation Division and SOB

If the Litigation Division of BOE's Legal Department receives notice of suit for refund filed by the taxpayer, it will promptly notify the administrator of SOB via email. SOB will enter a comment on the account in IRIS and in ACMS (if the account is active in ACMS) regarding the filing of the suit and verify if a stop demand in IRIS is in place on the remaining penalty and interest. If a stop demand is not in place, SOB will promptly place a stop demand on the affected liability. No action to collect the penalty and interest will be taken during the duration of the legal proceedings. Upon resolution of the court case, the Litigation Division will notify SOB regarding the outcome of the case. If BOE prevails in the lawsuit and the taxpayer's legal remedies are exhausted, SOB will remove the stop demand flag from the unpaid liability and enter a comment in IRIS and in ACMS (if the account is active in ACMS) regarding the outcome of the court case.

IV. OBSOLESCENCE

This Operations Memo will become obsolete when the information contained herein is incorporated into the CPPM.

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